## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

| UNITED STATES OF AMERICA, | )                        |
|---------------------------|--------------------------|
| Plaintiff,                | )<br>) 4:16CR3122<br>)   |
| V.                        | )                        |
| PAUL D. SELLON,           | ) MEMORANDUM AND ORDER ) |
| Defendant.                | ,                        |
|                           |                          |

On this date, and before sentencing, I gave the defendant leave to withdraw his plea of guilty that I had previously accepted. The defendant showed a fair and justice reason for requesting the withdrawal. See Federal Rule of Criminal Procedure 11(d)(2)(B).

In the plea agreement with the government, the United States and the defendant entered into "a package deal" where the defendant's wife would not be prosecuted. I was concerned that the defendant was pleading guilty solely to protect his wife, rather than because he also believed he was guilty. At an earlier hearing, when I probed that matter before deciding whether to accept the plea agreement, the defendant's counsel requested additional time to consult with the defendant. I adjourned the proceedings, and I provided counsel with that time.

At the hearing today, counsel for the defendant, with the defendant's explicit consent, moved to withdraw the plea with the understanding that the relevant time would be excluded from computation under the Speedy Trial Act. Defense counsel convinced me that my earlier concerns were justified. The government did not oppose the withdrawal of the plea.

## IT IS ORDERED:

- 1. The plea of guilty (see filing no. 9, filing no. 13 and filing no. 14) is withdrawn and therefore vacated. The plea agreement (filing no. 8) is declared null and void.
- 2. The time between from November 8, 2016 and through August 2, 2017 is excluded under the provisions of the Speedy Trial Act. 18 U.S.C. § 3161(h)(1)(G) &(i).
- 3. The objection to the presentence investigation report (filing no. <u>19</u>) is denied as moot.
- 4. This matter is referred to Magistrate Judge Zwart for further case progression.

DATED this 2<sup>nd</sup> day of August, 2017.

BY THE COURT:

s/ *Richard G. Kopf*Senior United States District Judge